

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

JESUS AND MARGARET AGREDANO

Plaintiff

v.

STATE FARM LLOYDS

Defendant

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§

CASE NO. 5:15-cv-1067

DEFENDANT STATE FARM LLOYDS' NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

STATE FARM LLOYDS files this Notice of Removal Pursuant to 28 U.S.C. § 1446(a) and respectfully shows the Court the following:

Procedural Background

1. On September 23, 2015, Plaintiffs filed their Original Petition in the matter entitled Jesus and Margaret Agredano v. State Farm Lloyds, Cause No. 2015-CI-16101, in the 225th Judicial District Court, Bexar County, Texas. Defendant State Farm Lloyds was served on November 4, 2015. Defendant State Farm Lloyds files this Notice of Removal pursuant to 28 U.S.C. § 1446 to remove the State Court Action from the 225st Judicial District of Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division.

Nature of Suit

2. This lawsuit involves a dispute over the alleged non-payment of insurance benefits to the Plaintiffs and the handling of Plaintiffs' claim for property damage allegedly arising out of a storm that occurred on August 11, 2014. Plaintiffs seek benefits from a homeowner's insurance policy covering their home located at 7630 Glen Mont in San Antonio,

Texas. Plaintiffs assert causes of action against State Farm Lloyds for violations of the Texas Insurance Code, breach of contract, and negligence.

Basis for Removal

3. The Court has jurisdiction over this action under 28 U.S.C. 1332 because there is and was complete diversity between all real parties in interest (Plaintiffs and State Farm Lloyds) and the amount in controversy exceeds \$75,000, exclusive of interest and costs

4. At the time this action was commenced, Plaintiffs Jesus and Margaret Agredano were, and still are, residents and citizens of Texas residing in Bexar County.

5. Defendant State Farm Lloyds was at the time this action was commenced, and still is, a citizen of Illinois. State Farm Lloyds is a “Lloyd’s Plan” organized under chapter 941 of the Texas Insurance Code. It consists of an unincorporated association of underwriters who were at the time this action was commenced, and still are, all citizens and residents of Illinois, thereby making State Farm Lloyds a citizen of Illinois for diversity purposes. *See Royal Ins. Co. of Am. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882-83 (5th Cir. 1993) (citizenship of unincorporated association determined by citizenship of members).

6. Plaintiffs’ Original Petition contains a conclusory statement that “(p)laintiffs’ damages are less than \$75,000.00.” However, in their Original Petition, Plaintiffs also seek treble damages under the Texas Insurance Code, interest, attorney’s fees, mental anguish damages, and exemplary damages. In addition, prior to filing suit, Plaintiffs sent State Farm a demand letter, a copy of which is attached hereto as Exhibit 1 and incorporated by reference. The demand letter included an estimate of Plaintiffs’ alleged damages under the policy, which Plaintiffs allege to be \$83,084.51. As shown by Plaintiffs’ demand and Petition, the amount in controversy requirement is satisfied.

Removal is Procedurally Correct

7. This Notice of Removal is filed within thirty (30) days of the filing of Plaintiffs' Original Petition as required by 28 U.S.C. § 1446(b).

8. Venue is proper in this district under 28 U.S.C. § 1446(a) because this district and division embrace the place in which the removed action is pending and because a substantial part of the events giving rise to Plaintiffs' claims allegedly occurred in this district and division.

9. Pursuant to 28 U.S.C. § 1446(a), all Pleadings, process and Orders in the State court action are attached to this Notice as Exhibit 2.

10. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be given to the Plaintiffs promptly after Defendant State Farm Lloyds files this Notice.

11. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice will be filed with the District Clerk, Bexar County, Texas promptly after Defendant State Farm Lloyds files this Notice.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that the Court remove the case to Federal Court and for such other and further relief to which Defendant may be justly entitled, whether at law or in equity.

Respectfully submitted,

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/s/ Jennifer Gibbins Durbin

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ATTORNEYS FOR DEFENDANT
STATE FARM LLOYDS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing ***Defendant State Farm Lloyds' Notice of Removal*** was electronically filed with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following individual(s), on the 3rd day of December, 2015.

Mr. Joshua P. Davis
Ms. Katherine Ray
Josh Davis Law Firm
1010 Lamar, Suite 200
Houston, Texas 77002

/s/ Jennifer Gibbins Durbin

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